

Application Serial No.: 10/616,707
Amendment dated October 18, 2005
Response to Office Action dated August 11, 2005

Amendment to Drawings

A replacement drawing sheet is attached hereto showing a corrected Fig. 10, in response to the Examiner's objection to Fig. 10.

Remarks

Upon further review, applicant believes that claim 29 reads on the elected species. Claim 29 adds to independent claim 14 the additional limitation of the frame being attached to the handle. Previously elected claim 1 has a similar limitation “a frame hinged on a handle” and none of elected figures 10, 3A and 17 contain information relating to the frame-handle interface. Applicant respectfully requests that this claim be presently examined.

In the Office Action mailed August 11, 2005, Examiner rejected claims 1-3, 11, 14, 16, 18, 23, 31, 33 and 37 under 102(b) as being anticipated by Santilli et al. Applicant has amended claim 1 to include the limitation of a one-piece frame. The device of Santilli is assembled from two arms and a rack while the device covered by claim 1 is more simple to use. Claim 1 is further amended to recite the support element of now canceled claim 11 and Santilli recites no support element for attaching the device to a fixed support external to the frame. Santilli lacks the one-piece frame and support element required by claim 1 and therefore does anticipate or suggest the subject matter of claim 1. Claim 3 depends from claim 1 and is therefore patentable over Santilli for the foregoing reasons. In addition, claim 3 is not anticipated by Santilli because, while the blades of Santilli are curved, they did not have a groove for holding a longer extension blade. Claim 3 is amended to clarify this point by reciting a means for holding a second blade and to remove the unnecessary limitation of “anterior”. Claim 14 is amended to further distinguish it and dependent claims 16, 18, 23, 31, 33 and 37 from Santilli by also reciting the limitation of a one piece frame.

Limitations from claim 1 and claim 3 are combined in newly presented claim 44. None of the cited references anticipate or suggest a tracked frame hinged on a handle and a slidably positionable retractor designed to accept an elongation blade.

Examiner rejected claims 1, 3, 9, 11, 14, 16, 18, 20, 23, 31-34 and 40 as being anticipated by Karlin et al. Amendments to independent claims 1 and 14 reciting a one-piece frame distinguish these claims from Karlin, in which the frame pieces 5, 6 and 7 are

assembled via interconnecting support blocks 8 and 9. Further, support blocks 8 and 9 would serve the same function as the jigs of instant invention (adjusting the angle of the retractor blades) yet would contact the patient if the frame was pressed against the patient.

Claims 1-3, 14, 16, 18, 31, 33, 34, 37, 41, 42 and 43 stand rejected as being anticipated by Van Meter. The device of Van Meter does not have a handle attached to its frame, only handles on the individual blades. While the device of Van Meter has retractor blades that are adjustable with respect to how far they protrude with respect to center of the frame, the position of the retractor blades along the perimeter of the frame is limited to four positions defined by slots in the frame. Independent claims 1, 14 and 41 are amended to recite the limitation of a lengthwise track and further distinguish them and corresponding dependent claims from the device of Van Meter.

Claims 1, 11, 12, 14, 16, 18, 23, 24, 27, 31 and 33 stand rejected as anticipated by McCready et al., which recites a device for abdominal surgery. The device of McCready has a mechanism that attaches the frame to the handle that must be engaged and disengaged at the site of surgery, in contrast to instant invention which has a handle hingedly connected to the frame which obviates the need for assembly steps at the site of surgery. Independent claims 1 and 14 are amended to recite the adjoined nature of the frame and handle.

Claim 36 stands rejected under 35 U.S.C. §103(a) as being unpatentable over the Van Meter reference. Constructing the device of Van Meter with a ball-type hinge would not result in the applicant's invention as Examiner suggests since the resulting device would lack a handle attached to a frame.

Claims 12 and 13 are amended to depend on claim 1 due to the cancellation of claim 11.

Support for the amended claims may be found throughout the application including the following places:

One piece frame:

Figures 1,6, and 7.

Page 4, lines 27-29.

Handle slidably attached to a support element:

Figures 1,6.

Page 6, lines 7-17.

Page 2, lines 3-9.

Hinge allowing adjustment; frame and handle requiring no assembly during the surgical procedure:

Figure 1, 6, and 7.

Page 1, line 21.

Page 4, line 29 to page 5, line 2.

Track extending along the length of the frame:

Figures 1, 2, 3, 4, 5, 6, 7.

Page 1, 22 to Page 2, line 1.

Page 4, lines 27-29.

Page 5, lines 5-7

Retractor blade having means for holding another blade of varying length:

Figures 7 and 12.

Page 2, lines 16-18.

Page 7, lines 9-11.

The preamble of claims 1, 14, and 41 are amended to reflect the devices' usefulness in perineal surgery as recited at page 4, line 25 of the specification.

New claim 48 includes means-plus-function elements and requires that at least one retractor include "an extension means for holding a second blade thereby increasing the effective length of the retractor and the depth of the surgical field." Support for this claim may be found in the places cited above as well as at page 7, lines 6-7, 11-13 and 18-20 and page 10, lines 13-16. As noted above, none of the cited references anticipate or suggest a tracked frame hinged on a handle and a slidably positionable retractor designed to accept an elongation blade. Thus, claim 48 is not taught or suggested by the cited references. Applicant believes that claim 48 reads on the elected species.

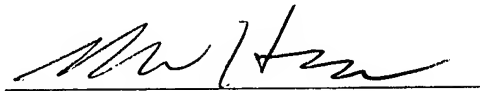
A replacement drawing sheet is attached to correct the error in Fig. 10 noted by the Examiner.

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No fees are believed to be due in connection with this application; however, please charge any additional fees due to Deposit Account No. 19-4972.

It is submitted that all the pending claims are in a condition for allowance. Consideration of the application and issuance of a notice of allowance are respectfully requested.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'R. A. Hess', is written over a horizontal line.

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